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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

EXAMINER	
LEROUX, ETIENNE PIERRE	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JEANE S. CHEN, EPHRAIM FEIG, DAHLIA P. BONA,
GREGORY J. GOULD, and HARRY E. GRUBER

Appeal 2010-000358
Application 09/819,358[1]
Technology Center 2100

Decided: June 28, 2010

Before JAY P. LUCAS, STEPHEN C. SIU, and DEBRA K. STEPHENS, *Administrative Patent Judges*.

LUCAS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal from the twice rejection of claims 1, 5 to 22, 26 to 38, 40 to 45, and 47 to 53 under authority of 35 U.S.C. § 134(a). The Board

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[1] Application filed March 28, 2001. The real party in interest is Kintera Corporation.

of Patent Appeals and Interferences (BPAI) has jurisdiction under 35 U.S.C. § 6(b). An oral hearing was requested, scheduled to be held on June 8, 2010, but failed to materialize as the Appellants did not appear.

We affirm the rejections.

Appellants' invention relates to a shared database in which individuals are given unique identifiers that stay constant across virtual data islands. In the words of Appellants:

> A system and method for analyzing a database residing in a computer system linked to a network is provided. The method includes creating one or more virtual data islands partitioned inside the database, each virtual data island storing client data for a specific client engaged in a fundraising campaign, the client data containing one or more constituent records (CR). The method further comprises the steps of creating a master island containing a compilation of the fields in the virtual data islands. The method further comprises the steps of creating a linking table including a compilation of unique identifiers of the individuals whose records are in the virtual data islands. The method further comprises the steps of creating a data pool having selected data from the CRs, analyzing the data pool, and using the results of the analysis in fundraising campaigns. The method further comprises identifying potential donors from the results of the analysis. The method further comprises determining, from the results of the analysis, a probability of a charitable donation by an individual donor. The method further comprises accessing individual donor records online, and conducting financial transactions.

(Abstract, Spec. 21.)

Claim 1 is exemplary:

> 1. A database in a computer system linked to a network and configured to store client data, the computer system having one or more processors and one or more storage devices coupled to the one or more processors, the database comprising:
>
> one or more virtual data islands partitioned inside the database, each virtual data island storing client data for a specific client engaged in fundraising, the client data containing one or more constituent records, the one or more constituent records including information about individuals, the information stored in a plurality of fields, wherein each individual is assigned a unique identifier, the unique identifier for an individual being common across the virtual data islands;
>
> a data pool having data from one or more constituent records stored in the one or more virtual data islands;
>
> a linking table including a compilation of unique identifiers of individuals whose records are in the one or more virtual data islands; and
>
> one or more program codes for analyzing the selected data in the data pool, wherein results of the analysis are useable by the clients for fundraising.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Ziarno	US 5,506,393	Apr. 09, 1996
Ziarno	US 5,665,952	Sep. 09, 1997
(hereinafter "Ziarno 952")		
Pivowar	US 6,308,201 B1	Oct. 23, 2001

Riordan	US 6,519,572 B1	Feb. 11, 2003
Romansky	US 6,535,871 B1	Mar. 18, 2003
Chan	US 6,539,446 B1	Mar. 25, 2003

REJECTIONS

The Examiner rejects the claims as follows:

R1: Claims 1, 5 to 9, 11, 12, 16, 20, 22, 26 to 29, 32, 33, 35 to 38, 40, 45, 47, 53 stand rejected under 35 U.S.C. § 103(a) for being obvious over Ziarno in view of Riordan.

R2: Claims 17, 48, and 49 stand rejected under 35 U.S.C. § 103(a) for being obvious over Ziarno in view of Riordan and further in view of Chan.

R3: Claims 10, 13 to 15, 41, 43, 44 and 50 to 52 stand rejected under 35 U.S.C. § 103(a) for being obvious over Ziarno in view of Riordan and further in view of Pivowar.

R4: Claims 18, 30 and 31 stand rejected under 35 U.S.C. § 103(a) for being obvious over Ziarno in view of Ziarno 952.

R5: Claims 19, 21 and 34 stand rejected under 35 U.S.C. § 103(a) for being obvious over Ziarno in view of Riordan and further in view of Romansky.

R6: Claim 42 stands rejected under 35 U.S.C. § 103(a) for being obvious over Ziarno in view of Riordan and Pivowar and further in view of Chan. This claim was mistakenly included in R2 by Appellants.

Appellants contend that Ziarno alone, or in combination with the other references, does not render the claimed subject matter unpatentable for failure of the references to teach claimed limitations. The Examiner contends that each of the claims is properly rejected.

We have only considered those arguments that Appellants actually raised in the Briefs. Arguments that Appellants could have made but chose not to make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ISSUE

The issue is whether Appellants have shown that the Examiner erred in rejecting the claims under 35 U.S.C. § 103(a). The issue for all of the rejections specifically turns on whether Ziarno teaches or suggests a unique identifier for individuals across data islands.

FINDINGS OF FACT

The record supports the following findings of fact (FF) by a preponderance of the evidence.

1. Appellants have invented a database structure and method for analyzing a database comprised of a plurality of virtual data island partitions, each island storing client data of a specific client engaged in fundraising campaigns (Spec. 4, middle). The data is formed into records and fields with a linking table containing unique identifiers of the individuals who records are in the virtual data islands (*Id.*). Analysis comprises identifying potential donors across the islands (*Id.*).

2. The Ziarno reference teaches a system of "kettles" electronically linked across a network with facilities to accept credit cards (Col. 2, ll. 45 to 63).

PRINCIPLES OF LAW

Appellants have the burden on appeal to the Board to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) ("On appeal to the Board, an applicant can overcome a rejection [under § 103] by showing insufficient evidence of prima facie obviousness or by rebutting the prima facie case with evidence of secondary indicia of nonobviousness.") (quoting *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

References within the statutory terms of 35 U.S.C. § 103 qualify as prior art for an obviousness determination only when analogous to the claimed invention. *In re Clay*, 966 F.2d 656, 658 (Fed. Cir. 1992). Two separate tests define the scope of analogous prior art: (1) whether the art is from the same field of endeavor, regardless of the problem addressed and, (2) if the reference is not within the field of the inventor's endeavor, whether the reference still is reasonably pertinent to the particular problem with which the inventor is involved. *In re Deminski*, 796 F.2d 436, 442 (Fed. Cir. 1986); *see also In re Wood*, 599 F.2d 1032, 1036 (CCPA 1979) and *In re Bigio*, 381 F.3d 1320, 1325 (Fed. Cir. 2004).). Furthermore, "'there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness' . . . [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ." *KSR Int'l v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

ANALYSIS

Arguments with respect to the rejection of claims 1, 5 to 22, 26 to 38, 40 to 45, and 47 to 53 under 35 U.S.C. § 103(a) [R1to R6]

The Examiner has rejected the noted claims respectively under rejections [R1 to R6]. Appellants present two arguments against this rejection. First, Appellants contend that the main reference, Ziarno, fails to teach or suggest a "unique identifier for an individual being common across the virtual data islands," as recited in the independent claims (App. Br. 12, top). We find this contention profoundly unconvincing, as the thrust of Ziarno is the acceptance of credit cards at each of a plurality of charitable "kettle" stations (Fig. 1, col. 9, l. 28), each with a contributing node of the collective donation data (Fig. 3a, col. 10, l. 60) and each kettle recording the unique credit card account number of the donor (Col. 10, ll. 10-20). We thus find good support in the reference for the Examiner's rejection, including the unique identifier.

Next, Appellants claim that the Examiner has failed to establish sufficient motivation to combine the Ziarno and the Riordan references (App. Br. 14, middle). Ziarno teaches a networked database containing donation data, collected and analyzed by statistical software (Col. 5, ll. 30 to 60). Riordan teaches the collection and analysis of networked marketing data (Col. 3, ll. 30 to 60). As both references are in the same field of endeavor as the Appellants', combination of the references is proper. (See *In re Clay*, cited above.).

CONCLUSIONS OF LAW

Based on the findings of facts and analysis above, we conclude that the Examiner did not err in rejecting claims 1, 5 to 22, 26 to 38, 40 to 45, and 47 to 53.

DECISION

We affirm the Examiner's rejections [R1 to R6] of claims 1, 5 to 22, 26 to 38, 40 to 45, and 47 to 53.

AFFIRMED

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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278